

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3392 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

NARENBHAI LAKHABHAI

Versus

CHIMANBHAI K MEHTA

Appearance:

MR JK RAVAL for MUKUND M DESAI for Petitioner
None present for Respondent No. 1
MS MANISHA LAVKUMAR for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/06/2000

ORAL JUDGEMENT

1. Heard the learned counsel for the parties. The
land sold by the petitioner to respondent no.1 and sale
deed was found to be illegal as being made in

contravention of the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1957 by the Dy. Collector. This order of the Dy. Collector was taken by respondent no.1 in revision and the revision application of respondent no.1 was allowed under the Order dated 18th September, 1989 and hence, this Special Civil Application.

2. This petition was admitted on 24th April, 1990 and ad interim relief in terms of paragraph no.15(a) has been granted which continues till date. Under the Order of the Dy. Collector, the land in dispute is to be reverted back to the petitioner. This land is bearing Survey No.342 admeasuring 12 Gunthas situated in the sim of village Vemali.

3. One of the contentions raised by the learned counsel for the petitioner is that the revisional authorities have decided the revision application filed by the respondent no.1 without any notice or an opportunity of hearing to the petitioner. In paragraph no.9 of the Special Civil Application, the petitioner made a statement that the State Government has not issued and served any notice nor afforded any opportunity of hearing to the petitioner before deciding the said revision application. He further clarified that the petitioner has not received any notice of the hearing of the said revision application. He, as per his case, came to know of this impugned order only when he received the copy of the same through post.

4. The learned counsel for respondent no.2 submits that from the order of the State Government, it appears that notice of the revision application has not been given to the petitioner. Otherwise also, the statement of the fact, as made by the petitioner in paragraph no.9 of the Special Civil Application has not been controverted by either of the respondents by filing reply and this uncontroverted statement of the fact has to be accepted.

5. It is a case where the revision application has been decided by the State Government without notice or an opportunity of hearing to the petitioner. The petitioner was an affected person under that order and otherwise also, he was a necessary party to the revision application. Only on this short ground, this Special Civil Application deserves to be allowed and accordingly, the same is allowed. The order of the State Government dated 18/09/1989, Annexure-C, is hereby quashed and set aside. The respondent no.2, State Government, is

directed to restore the revision application to its original number and decide the same after giving notice to the parties and if they remain present afford them an opportunity of hearing. Rule is made absolute accordingly with no order as to costs.

(S.K. Keshote, J.)
(kamlesh)